

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: KATH et al. : Confirmation No.: 8724
APPLICATION NO.: 10/734,039 : Examiner: V. Balasubramanian
FILING DATE: December 11, 2003 : Group Art Unit: 1624
TITLE: COMPOUND FOR THE TREATMENT :
OF ABNORMAL CELL GROWTH :

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir,

OK to allow
VB
9/25/06

REQUEST FOR RECONSIDERATION

This communication is submitted in response to the Advisory Action mailed on September 13, 2006 in connection with the above-identified application. A shortened statutory response to the final Office Action mailed on June 28, 2006 was set to expire three (3) months from the mailing date of the final Office Action, i.e., on September 28, 2006. Accordingly, this communication is timely filed.

Applicants also wish to thank Examiner Balasubramanian for the courtesy of a telephonic interview held on September 21, 2006 with Applicants' agent (David Kershner, Reg. No. 53,112). During the interview, Examiner Balasubramanian indicated that he would allow the pending claims in the instant application if the double patenting issues raised in the Advisory Action were addressed as set forth below.

In the Advisory Action the Examiner maintained the provisional double patenting rejection of claims 24, 31 and 32 in the instant application over claims 1-32 of copending Application No. 11/127,676, filed May 12, 2005 ("the '676 application"). The Examiner also maintained the provisional double patenting rejection of claims 24, 31 and 32 in the instant application over claims 1-27 of copending Application No. 11/124,006 filed May 6, 2005 ("the '006 application"). The Examiner stated "[t]hat there were five such double patenting [rejections] made in the previous office action. Applicants have filed Terminal Disclaimer for 10/733,215, 11/122,515 and 11/127,809. Applicants have not addressed above two double patenting rejections or filed Terminal Disclaimer." The Examiner further stated that "[t]he instant claims would not be allowable until the double patenting issues are resolved."

As discussed during the telephonic interview, Applicants note that that the instant application is otherwise in condition for allowance, whereas the '676 and '006 applications remain pending. Therefore, the MPEP provides that the instant application should be allowed to issue and the double patenting rejections maintained in the '676 and '006 applications. Thus, the double patenting rejections based on the '676 and '006 applications should not be an

impediment to the allowance of the instant application.

For the reasons set forth above, Applicants respectfully request that the Examiner reconsider the rejections set forth in the September 13, 2006 Advisory Action and earnestly solicit allowance of the claims pending in the subject application.

No additional fee is believed due in connection with this communication. However, if any fee is due, the Examiner is authorized to charge the fee to Applicants' Deposit Account No. 16-1445.

If the Examiner wishes to comment or discuss any aspect of this application or communication, Applicants' undersigned attorney invites the Examiner to call him at the telephone number provided below.

Respectfully submitted,

Date: September 21, 2006

/David L. Kershner/
David L. Kershner
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Reg. No. 53,112

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